

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, FEBRUARY 20, 2008 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Mary Beth Broeren

**STAFF MEMBER:** Andrew Gonzales, Rami Talleh, Pamela Avila (recording secretary)

**MINUTES:** January 16 and 30, 2008  
**APPROVED AS SUBMITTED**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: COASTAL DEVELOPMENT PERMIT NO. 2007-017; CONDITIONAL USE PERMIT NO. 2007-042; VARIANCE NO. 2007-011 (YOUNESSI RESIDENCE – CONTINUED FROM THE JANUARY 9, 2008 MEETING)**

**APPLICANT:** Karen Otis – Otis Architecture, 16871 Sea Witch Lane, Huntington Beach, CA 92649

**PROPERTY OWNER:** Mike Younessi – Alea Investments, LLC, 16033 Bolsa Chica St., #104-200, Huntington Beach, CA 92649

**REQUEST:** **CDP:** To permit the demolition of an existing single family dwelling and the construction of an approximately 4,533 sq. ft. single-family dwelling with a 483 sq. ft. attached garage; **CUP:** To permit an approximately 1,363 sq. ft. 3<sup>rd</sup> story deck. **VAR:** To permit a 19'-5" front yard setback, in lieu of the minimum required 20 ft. front yard setback for a front entry garage, and permit approximately 10 linear feet of a 3<sup>rd</sup> floor deck to be setback 4 ft. from the building exterior in lieu of the minimum required 5 ft. setback. The request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/privacy issues, such as window alignments, building pad height, and floor plan layout.

**LOCATION:** 4022 Morning Star Drive, 92649 (south side of Morning Star Dr., west of Edgewater Ln. – Huntington Harbor)

**PROJECT PLANNER:** Andrew Gonzales

Andrew Gonzales, Assistant Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

Staff explained the suggested conditions of approval to remove a metal trellis, provide a 5 ft. setback from the building exterior to a third floor elevator and deck, and provide an additional 3 ft. setback on the east and west side of the third floor deck to the building exterior. Staff also reported that no additional comments were received, except for the testimony in opposition to the project received at the January 29, 2008 Zoning Administrator meeting. Staff noted that the Homeowners' Association has approved this request.

Mary Beth Broeren, Zoning Administrator, inquired regarding the deck direction faced by the east/west orientation and staff stated that it is relatively the same, and does not encroach any further than before.

Ms. Broeren inquired about the elevator and whether it met setback requirements. Staff responded that it met code requirements. Staff also stated that the elevator shaft goes through the first and second floor. Staff explained that the plane of the elevator shaft is flush against the plane of the building, and is 5 ft. from the property line. Ms. Broeren asked if it is considered part of the deck and staff stated yes. Rami Talleh, Zoning Administrator Liaison, stated that the elevator complies with the 5 ft. setback.

Ms. Broeren noted that a metal trellis is not usually considered a part of the roofline and may sometimes project beyond the roofline. Staff responded that the proposed trellis added mass and bulk to the third floor making it a prominent feature of the structure which conflicts with the General Plan.

#### **THE PUBLIC HEARING WAS OPENED.**

Karen Otis, applicant, explained the changes made to the design. She stated that the third floor habitable area was removed, a turret was added, the deck was modified to orient towards the channel and street only, obscure glass was added to the deck to ensure privacy, a metal trellis was added to the roof deck, and the landing area at the top of the staircase was reduced down to the minimum required landing space.

Ms. Otis was strongly opposed to reducing the width of the deck by an additional 3 ft. along the east and west side. She also stated that a 4 ft. walkway along the north side is too narrow and uncomfortable, particularly for larger people.

Candace Campbell, neighbor at 4012 Morning Star Drive, questioned if the placement of windows facing her master bedroom and bathroom windows would eliminate her privacy.

#### **THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren asked Ms. Otis if she wanted to address the neighbor's concern regarding the windows. Ms. Otis stated that the windows do not line up with Ms. Campbell's windows. Mr. Younessi, the property owner, stated that he would be willing to use obscure glass.

Ms. Broeren inquired about the width of the metal trellis. Staff responded that the trellis was 14 ft. long. Ms. Broeren recommended scaling back the metal trellis. Ms. Otis responded to the issue and stated that scaling back the trellis was not a problem.

Ms. Broeren stated that she was going to approve the request and asked staff to modify the suggested findings and/or conditions as noted below in the revised findings and conditions of approval.

**COASTAL DEVELOPMENT PERMIT NO. 2007-017; CONDITIONAL USE PERMIT NO. 2007-042; VARIANCE NO. 2007-011 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) WORKING DAYS.**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project is located within an urbanized residential zone and involves the construction of a new single family dwelling.

**FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2007 -017:**

1. Coastal Development Permit No. 2007-017 for the demolition of an existing single family dwelling and construction of a new 4,553 sq. ft. single-family dwelling with a 483 sq. ft. attached garage conforms with the General Plan, including the Local Coastal Program land use designation of Residential Low-Density. The project is consistent with Coastal Element Land Use Policy C 1.1.1 to encourage development within, contiguous to or in close proximity to existing developed areas able to accommodate it. The proposed construction will occur on a developed site, contiguous to existing residential development.
2. The project, as conditioned, is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code, with exception of the requested variance for a garage front yard setback and 3<sup>rd</sup> floor deck setback. The project is conditioned to comply with the third story design criteria. In addition, the project complies with the maximum site coverage, maximum building height, and minimum on-site parking.
3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed addition will be constructed on a previously developed site in an urbanized area with all necessary services and infrastructure available, including water, sewer and roadways.
4. The development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impede public access or impact public views to coastal resources.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007- 042:**

1. Conditional Use Permit No. 2007-042 to permit an approximately 1,284 sq. ft. 3<sup>rd</sup> story deck will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The location and orientation of the proposed 3<sup>rd</sup> floor deck will not impact privacy because a 6 ft.

high combination solid wall with tempered obscure glass is conditioned to be installed in order to prevent views onto adjacent residences. To further protect the privacy of the adjoining neighbors the third floor deck is conditioned to be setback a minimum of 7 ft. from the exterior of the building's easterly elevation providing an overall 12 ft. distance from the adjoining property line.

2. The conditional use permit will be compatible with surrounding single-family homes because the 3<sup>rd</sup> floor deck will be integrated into the design of the proposed residence. The deck is setback 5 ft. from the building elevation, with exception of approximately ten linear feet setback at 4 ft. and orientated to the rear of the property, and is screened with landscaping and obscure glass. In addition, the deck is conditioned to provide an additional 2 ft. setback from the east elevation to further orient it toward the public right-of-way, thus protecting the privacy of adjacent properties.
3. The proposed 3<sup>rd</sup> floor deck will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The project complies with the maximum building height, maximum lot coverage, and minimum building setbacks, with the exception of the requested variance for the garage front yard setback and 3<sup>rd</sup> floor deck setback. Rooftop decks above the second story are allowed in the base zoning district with approval of a conditional use permit. The proposed deck, as conditioned, will be setback at a minimum of 5 ft. from the second-story façade, with exception of approximately ten linear feet setback at 4 ft, and setback further along the adjoining easterly property line.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL-7 (Low Density Residential—7 units per acre) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
  - a. LU 9.2.1b: Use of building heights, grade elevations, orientation, and bulk that are compatible with the surrounding development;
  - b. LU 9.2.1d: Maintenance of privacy on abutting residences.

The proposed development, as conditioned, is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code, with the exception of the requested variance for the garage front yard setback and 3<sup>rd</sup> floor deck setback, including maximum site coverage, maximum building height, minimum side and rear yard setbacks, and minimum on-site parking. The proposed rooftop deck above the second story will be oriented toward the public right-of-ways with a substantial setback from the building's easterly exterior elevation, thus minimizing impacts to privacy on adjoining properties. The proposed deck will be architecturally integrated into the design of the house.

#### **FINDINGS FOR APPROVAL - VARIANCE NO. 2007-011:**

*To permit a 19'-5" front yard setback, in lieu of the minimum required 20 ft. front yard setback for a front entry garage.*

1. The granting of Variance No. 2007-011 to permit a 19'-5" front yard setback, in lieu of the minimum required 20 ft. front yard setback for a front entry garage, will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and under an identical zone classification. The subject site is located at the terminus of a cul-de-sac creating a curvilinear front property line. The curvature in the property line yields a 19'-5" setback which will accommodate open parking spaces within the driveway consistent with other properties in the vicinity.
2. Because of special circumstances applicable to the subject property, including size, shape, or location, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The subject site is located at the terminus of a cul-de-sac, which creates a concave and narrow front property line resulting in a shallow lot. The depth of the lot is found to deprive the property of constructing a full sized two-car garage at a 20 ft. front yard setback.
3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. Due to the curvilinear front property line created by the property's location at the terminus of a cul-de-sac, the depth of the lot is reduced such that the onsite developable area is less than that allotted for similarly zoned properties in the area. In addition, the reduced front yard setback can adequately provide an open parking space without encroaching into the public right-of-way despite having a reduced front yard setback.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The subject property provides the Code required parking by means of a two-car garage and two onsite parking spaces which alleviates the impact to parking on Morningstar Drive. No detrimental impacts to surrounding properties are anticipated.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL-7 (Residential Low-Density – 7 units/acre) on the subject property, including the following policies:

LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.

LU 9.1.2(d): Encourage creative and unique design concepts.

The requested variance accounts for the unique configuration of the subject property resulting from the property's location at the terminus of a cul-de-sac. The concave nature of the front property line reduces the overall developable area more than other properties in the surrounding area and under an identical zone classification. Re-orientation of the garage would provide a reduction in the overall living area and alter the unique architectural design of the proposed residence.

*To permit approximately ten linear feet of a 3<sup>rd</sup> floor deck to be setback 4 ft. from the building exterior in lieu of the minimum required 5 ft. setback.*

1. The granting of Variance No. 2007-011 to permit approximately ten linear feet of a 3<sup>rd</sup> floor deck to be setback 4 ft. from the building exterior in lieu of the minimum required 5 ft.

setback will not constitute a grant of special privilege because the concave design of the residence orients the deck toward the public right-of-way (Weatherly Channel), which screens the encroaching section of the deck from the adjoining residential properties.

2. Because of special circumstances applicable to the subject property, including size, shape, or location, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The design of the proposed residence is configured to address the site's unique lot location by providing a concave pocket along the building's rear elevation that primarily orientates the deck toward the waterway. The approximately ten linear feet portion of the deck will be setback further from adjoining residential properties than the remaining deck, and therefore will not result in an impact to privacy.
3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The 1 ft. encroachment into the required 5 ft. deck setback will not infringe on the privacy of adjoining residential properties because the encroaching segment of the deck will occur at a location concealed by the remaining portion of the deck and oriented toward the public right-of-way. Approximately ten linear feet of the 3<sup>rd</sup> floor deck will be setback 4 ft. from the building exterior to provide adequate and secure ingress and egress to the east and west portion of the deck.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The encroaching portion of the 3<sup>rd</sup> floor deck will face the adjoining right-of-way and will be located at the furthestmost distance from the neighboring residential property lines. Privacy of the adjoining residential properties will be protected, and therefore no detrimental impacts to surrounding properties are anticipated.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL-7 (Residential Low-Density – 7 units/acre) on the subject property, including the following policies:

LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.

LU 9.1.2(d): Encourage creative and unique design concepts.

The requested variance accounts for the unique configuration of the subject property resulting from the property's location abutting a public waterway. The project design is a contemporary style residence with a concaved rear elevation that serves to provide a physical barrier from adjoining residential lots thereby protecting privacy.

**CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2007-017/CONDITIONAL USE PERMIT NO. 2007-042/VARIANCE NO. 2007-011:**

1. The site plan, floor plans, and elevations received and dated January 31, 2008 shall be the conceptually approved design with the following modifications:
  - a. The metal trellis shall not extend beyond the planter wall and the elevator.

- b. The privacy wall located along the easterly and westerly perimeter of the 3<sup>rd</sup> floor deck shall be increased to an overall height of 6 ft.
  - c. The privacy wall located along the east elevation shall be setback a minimum of 7 ft. from the building's exterior.
2. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

***Due to conflicting schedules, the Zoning Administrator Hearing was moved to the Council Chambers' Caucus Room for the second item on the agenda.***

**ITEM 2: COASTAL DEVELOPMENT PERMIT NO. 2006-05 AND MITIGATED NEGATIVE  
DECLARATION NO. 2006-04 (MAGNOLIA STREET SIDEWALK INSTALLATION)**

APPLICANT/

PROPERTY OWNER: City of Huntington Beach, Public Works Department, 2000 Main Street, Huntington Beach, CA 92648

REQUEST: **CDP:** To permit an increase in the overall street width of Magnolia St. from 64 ft. to 80 ft. wide by installing sidewalk, curb, and gutter alongside the existing paved street within the existing street right-of-way. The project request also includes the installation of catch basins, look-out points and a 42 inch high fence/barrier on both sides of Magnolia Street at the perimeter of the right-of-way; **MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project.

LOCATION: 22100 Magnolia Street, 92646 (Both sides of Magnolia St. between Pacific Coast Highway and the Huntington Beach Channel - approximately 900 linear feet)

PROJECT PLANNER: Rami Talleh

Rami Talleh, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

Staff reported that construction is expected to take approximately three to four months to complete. The Public Works Department proposes to begin construction in September after the Belding Savannah Sparrow nesting season ends.

Staff provided an overview of the suggested mitigation measures. Staff reported that the project will result in a loss of 0.40 acres of area under the jurisdiction of the California Department of Fish and Game (DFG) which includes 0.05 acres of wetlands. The project will mitigate the loss of wetlands by funding a significant portion of the restoration of the Upper Magnolia Marsh. This restoration project will be carried out by the Huntington Beach Wetlands Conservancy. When completed, the Upper Magnolia Marsh restoration will result in 0.97 acres of wetland area.

Staff indicated the Magnolia Street Sidewalk Installation project's obligation of restoring 0.8 acres of Upper Magnolia Marsh exceeds the DFG's 1 to 1 mitigation requirements for the loss of habitat area and the Coastal Commission's 3 to 1 mitigation requirements for the loss of wetland area.

Staff reported that the comment period for the draft mitigated negative declaration commenced on September 5, 2007 and ended on October 5, 2007. Seven comment letters were received as a result. A response to comments as well as an errata to the MND was prepared. No additional comments were received in conjunction with the public notification preceding this meeting.



Mary Beth Broeren, Zoning Administrator, inquired about the material proposed for the fence. Staff responded that the proposal calls for a chain link fence.

Ms. Broeren inquired if this project required Design Review Board (DRB) action. Staff responded that DRB review was not required.

**THE PUBLIC HEARING WAS OPENED.**

Gary Gorman, Huntington Beach Wetlands Conservancy (HBWC), raised concerns regarding construction dates and how the proposed sidewalk would integrate with a future pedestrian path within the adjacent Huntington Beach Wetlands.

**AS THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST, THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren and staff engaged in discussions concerning the comments received from DFG. Ms. Broeren inquired if a monitoring program will be required. Ms. Broeren stated that Condition of Approval No. 2 requires a monitoring program be prepared according to the standards of the Department of Fish and Game. Ms. Broeren also indicated that Condition No. 3 technically allows the City to start construction during the nesting season.

Mr. Gorman stated that the City has contracted with his group to carry out monitoring of the site. Todd Broussard, Principal Civil Engineer, added that the DFG reviewed the agreement between the City and the HBWC for the restoration of Upper Magnolia Marsh and monitoring of the site.

Staff stated that construction would not begin until after the nesting season ends. Mr. Broussard stated that it would begin bidding for construction in the summer and will not start construction until September of 2008.

Ms. Broeren inquired if the chain link fence was proposed due to budget consideration. Ms. Broeren added a condition that the chain link fence be vinyl coated and a maximum of 1 in. mesh.

Ms. Broeren approved the project with a modification to Condition No. 3 limiting construction time and addition of Condition No. 4 regarding the chain link fence.

**COASTAL DEVELOPMENT PERMIT NO. 2006-05 AND MITIGATED NEGATIVE DECLARATION NO. 2006-04 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING REVISED FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) WORKING DAYS.**

#### **FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 2006-004:**

1. The Negative Declaration No. 2006-004 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Zoning Administrator prior to action on the Negative Declaration and Coastal Development Permit No. 2006-004. As a result of comments received an Errata to Mitigated Negative Declaration No. 2006-005 was prepared and considered by the Zoning Administrator prior to action on the subject entitlement.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The proposed sidewalk installation project will impact 0.05 acre of wetlands by installation of sidewalk, curb and gutter on both sides of Magnolia Street within the existing public right-of-way. Loss of this wetland acreage will be fully mitigated through an agreement and payment of funds to the Huntington Beach Wetlands Conservancy to restore the Upper Magnolia Marsh, an existing 1.597 acre site with water supply, grading, and vegetation removal. The Magnolia Street Sidewalk Installation project will fund the restoration of a 0.80 acre portion of the site. When completed and combined with the mitigation requirements of the Newland Street Widening project, the Upper Magnolia Marsh restoration will result in a total 0.97 acre of restored wetland area.
3. There is no substantial evidence in light of the whole record before the Zoning Administrator that the project, as mitigated through the conditions of approval for CDP NO. 2006-005, will have a significant effect on the environment.

#### **FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2006-005:**

1. Coastal Development Permit No. 2006-005 for the development project to install sidewalk, curb, and gutter including the installation of catch basins, look-out points and a 42 inch high fence/barrier alongside the existing paved street within the existing street right-of-way, conforms with the General Plan, including the Local Coastal Program as follows:

##### **A. Circulation Element**

**Goal CE 6:** Provide a city-wide system of efficient and attractive pedestrian, equestrian, and waterway facilities for commuter, school, and recreational use.

**Objective CE 6.1:** Promote the safety of bicyclists and pedestrians by adhering to Caltrans and City-wide standards.

**Policy CE 6.1.10:** Implement appropriate traffic devices and operation programs throughout the community to ensure that conflicts between pedestrians, bicycles, and vehicles are minimized and safety enhanced.

The street improvement project includes a sidewalk and look out points on both sides of Magnolia to improve safety and minimize conflicts between pedestrians, bicyclists, and motorists.

## B. Coastal Element

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

The loss of 0.40 acres of area under the jurisdiction of the California Department of Fish and Game, which includes 0.05 acres of wetlands, is fully mitigated with restoration of a portion of a 1.597 acre site nearby. The restoration project includes introduction of a water supply, grading, and vegetation removal. The Magnolia Street Sidewalk Installation project will fund the restoration of a 0.80 acre portion of the site. When completed and combined with the mitigation requirements of the Newland Street Widening project, the Upper Magnolia Marsh restoration will result in a 0.97 acre of restored wetland area.

Policy C 2.8.1: Promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

The sidewalk installation project provides a new sidewalk on both sides of Magnolia Street between Pacific Coast Highway and Huntington Beach Channel where no sidewalk exists today. Currently all pedestrians are walking within the roadway. The new sidewalk improvements promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

Policy C 6.1.20: Limit diking, dredging, and filling of coastal waters, wetlands, and estuaries to the specific activities outlined in Section 30233 and 30607.1 of the Coastal Act and to those activities required for the restoration, maintenance, and/or repair of the Municipal Pier and marina docks. Conduct any diking, dredging, and filling activities in a manner that is consistent with Section 30233 and 30607.1 of the Coastal Act.

Policy C 7.2.6: Prohibit fill in any wetland area for the purpose of road construction, except for roads allowed pursuant to Section 30233 of the Coastal Act or when required to serve uses allowed in wetlands pursuant to and consistent with Section 30260-30264 of the Coastal Act for coastal dependent and energy uses. Any roads governed by this policy shall be limited to necessary access roads appurtenant to the facility, and shall be permitted only where there is no feasible, less environmentally damaging alternative and where feasible mitigation measures have been provided.

Goal C 9: Provide water, sewer, and drainage systems that are able to support permitted land uses; upgrade existing deficient systems, and pursue funding sources to reduce costs of wastewater service provision in the City.

Although the sidewalk installation results in the loss of 0.40 acres of habitat area under the jurisdiction of California Department of Fish and Game, the 0.40 acres contains only 0.05 acres or 2,178 square feet of wetlands area. Coastal Act Section 30233 states that the diking, filling or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative and where feasible, mitigation measures have been provided to minimize adverse environmental effects. Section 30233 further states that diking, filling, or dredging shall be limited to the following and then lists numbers 1) through 8) of authorized reasons to fill.

The Magnolia Street Sidewalk Installation project falls under number "5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines."

The project would permanently impact 0.05 acres of degraded wetlands within the Magnolia Street right-of-way. Paving of this area is necessary because there is no space to install the sidewalks without impacting the abutting area. Currently, the wetlands that would be lost have minimal biological value. The area consists of berms abutting Magnolia Street. The loss of approximately 0.05 acres of wetlands will be mitigated by the restoration of tidal flow to a 0.80 acre portion of the Huntington Beach Wetlands in a 1.597 acre parcel, the Upper Magnolia Marsh. The restored wetlands will have much greater functional value than the degraded wetlands within the Magnolia Street Right-of-way. Therefore the proposed mitigation measure would minimize the adverse effects of paving the area and there is no feasible less environmentally damaging alternative available.

Section 30607.1 of the Coastal Act discusses mitigation measures for filling of wetlands and states that mitigation, "...shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency..."

As noted above the restoration of Upper Magnolia Marsh complies with the mitigation requirements established in Coastal Act Section 30607.1 because, when completed and combined with the mitigation requirements of the Newland Street Widening project, a gross 1.597 acre (net .97 acres) area will be opened to tidal action. The Magnolia Street Sidewalk Installation project's obligation of restoring 0.80 acres of the Upper Magnolia Marsh restoration project far exceeds the CDFG 1:1 mitigation requirements for the loss of 0.40 acre of habitat area and the Coastal Commission's 3:1 mitigation requirements for the loss of 0.05 acre of wetland area.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The sidewalk installation is compatible with zoning designations on the adjacent properties. No above ground structures, other than street lights and fencing are proposed in conjunction with the project. New sidewalks, curb and gutter, catch basins, look out points, and fencing are all consistent with surrounding zoning designations.
3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project includes infrastructure improvements to the street and storm drain systems. No other infrastructure improvements, other than standard maintenance, are necessary for the long-term operation of the proposed sidewalk installation project.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed sidewalk installation project will not result in negative impacts to public access and recreation opportunities within the Coastal Zone. Conversely, the projects results in improved access to coastal resources by constructing a sidewalk on the both sides of Magnolia Street between Pacific Coast Highway and

Huntington Channel, where no sidewalk exists today.

**CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2006-005:**

1. The site plan received and dated March 28, 2006 shall be the conceptually approved design.
2. Prior to issuance of a grading permit, the City of Huntington Beach shall enter into an agreement with the Huntington Beach Wetlands Conservancy for restoration of 0.80 acre of the Upper Magnolia Marsh, a 1.597 acre site owned by the Conservancy. The agreement shall identify the three restoration elements of water supply, grading, and vegetation removal, shall provide for \$97,319.58 from the City to the Conservancy, and shall obligate the Conservancy to carry out the restoration and monitoring of the project pursuant to the standards of the California Department of Fish and Game. The \$97,319.58 shall be transferred from the City to the Conservancy prior to issuance of grading permits for the Magnolia Street Sidewalk installation project. If the Newland Street Improvement project does not go forward, the Magnolia Street Sidewalk Installation project shall be required to fund the full amount of the Magnolia Marsh restoration project (\$118,000). If the full amount of the project cost has already been paid with the Newland Street Improvement project, then any available credit shall apply towards this requirement. (Mitigation Measure BIO2)
3. No construction shall occur during the Belding Savannah Sparrow nesting season, which generally occurs between mid February and early August. (Mitigation Measure BIO1)
4. A 42 inch high vinyl coated chain link fence with maximum one inch mesh shall be provided on both sides of Magnolia Street along the perimeter of the right-of-way.

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**THE MEETING WAS ADJOURNED AT 2:50 PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, MARCH 5, 2008 AT 1:30 PM.**



Mary Beth Broeren  
Zoning Administrator

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